

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 496
94TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Public Health, March 29, 2007, with recommendation that the Senate Committee Substitute do pass.

1352S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 58.720, 194.210, 194.220, 194.230, 194.233, 194.240, 194.250, 194.260, 194.270, 194.280, 194.290, and 194.304, RSMo, and to enact in lieu thereof twenty-six new sections relating to anatomical gifts, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 58.720, 194.210, 194.220, 194.230, 194.233, 194.240, 194.250, 194.260, 194.270, 194.280, 194.290, and 194.304, RSMo, are repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 58.720, 58.775, 58.780, 58.785, 194.210, 194.215, 194.220, 194.225, 194.230, 194.235, 194.240, 194.245, 194.250, 194.255, 194.260, 194.263, 194.265, 194.270, 194.275, 194.280, 194.285, 194.290, 194.292, 194.293, 194.294, and 194.304, to read as follows:

58.720. 1. When any person dies within a county having a medical examiner as a result of:

- (1) Violence by homicide, suicide, or accident;
- (2) Thermal, chemical, electrical, or radiation injury;
- (3) Criminal abortions, including those self-induced;
- (4) Disease thought to be of a hazardous and contagious nature or which might constitute a threat to public health; or when any person dies:
 - (a) Suddenly when in apparent good health;
 - (b) When unattended by a physician, chiropractor, or an accredited Christian Science practitioner, during the period of thirty-six hours immediately preceding his death;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 (c) While in the custody of the law, or while an inmate in a public
13 institution;

14 (d) In any unusual or suspicious manner;
15 the police, sheriff, law enforcement officer or official, or any person having
16 knowledge of such a death shall immediately notify the office of the medical
17 examiner of the known facts concerning the time, place, manner and
18 circumstances of the death.

19 Immediately upon receipt of notification, the medical examiner or his designated
20 assistant shall take charge of the dead body and fully investigate the essential
21 facts concerning the medical causes of death. He may take the names and
22 addresses of witnesses to the death and shall file this information in his
23 office. The medical examiner or his designated assistant shall take possession of
24 all property of value found on the body, making exact inventory thereof on his
25 report and shall direct the return of such property to the person entitled to its
26 custody or possession. The medical examiner or his designated assistant
27 examiner shall take possession of any object or article which, in his opinion, may
28 be useful in establishing the cause of death, and deliver it to the prosecuting
29 attorney of the county.

30 2. When a death occurs outside a licensed health care facility, the first
31 licensed medical professional or law enforcement official learning of such death
32 shall contact the county medical examiner. Immediately upon receipt of such
33 notification, the medical examiner or the medical examiner's deputy shall make
34 a determination if further investigation is necessary, based on information
35 provided by the individual contacting the medical examiner, and immediately
36 advise such individual of the medical examiner's intentions.

37 3. In any case of sudden, violent or suspicious death after which the body
38 was buried without any investigation or autopsy, the medical examiner, upon
39 being advised of such facts, may at his own discretion request that the
40 prosecuting attorney apply for a court order requiring the body to be exhumed.

41 4. The medical examiner shall certify the cause of death in any case where
42 death occurred without medical attendance or where an attending physician
43 refuses to sign a certificate of death, and may sign a certificate of death in the
44 case of any death.

45 5. When the cause of death is established by the medical examiner, he
46 shall file a copy of his findings in his office within thirty days after notification
47 of the death.

48 6. When a person is being transferred from one county to another county
49 for medical treatment and such person dies while being transferred, the county
50 from which the person is first removed shall be considered the place of death and
51 the medical examiner of the county from which the person was being transferred
52 shall be responsible for the certificate of death and for investigating the cause
53 and manner of the death. If the coroner or medical examiner in the county in
54 which the person died believes that further investigation is warranted and a
55 postmortem examination is needed, such coroner or medical examiner shall have
56 the right to further investigate and perform the postmortem examination at the
57 expense of such coroner or medical examiner and shall be responsible for the
58 certificate of death and for investigating the cause and manner of the
59 death. Such coroner or medical examiner shall immediately notify the coroner or
60 medical examiner of the county from which the person was being transferred of
61 the death of such person and after an investigation is completed shall notify such
62 coroner or medical examiner of his findings. If a person does not die while being
63 transferred and is institutionalized after such transfer and subsequently dies
64 while in such institution, the coroner or medical examiner of the county in which
65 the person dies shall immediately notify the coroner or medical examiner of the
66 county from which such person was transferred of the death of such person. In
67 such cases, the county in which the deceased was institutionalized shall be
68 considered the place of death.

69 7. Except as provided in subsection 6 of this section, if a person dies in
70 one county and his body is subsequently transferred to another county, the county
71 coroner or medical examiner where the death occurred shall be responsible for the
72 certificate of death and for investigating the cause and manner of the death.

73 8. In performing his duties, the coroner or medical examiner shall [make
74 reasonable efforts to accommodate organ donation] **comply with sections**
75 **58.775 to 58.785 with respect to organ donation.**

58.775. For the purpose of sections 58.775 to 58.785, the
2 **definitions in section 194.210, RSMo, are applicable.**

58.780. 1. A coroner or medical examiner shall cooperate with a
2 **procurement organization to maximize the opportunity to recover**
3 **anatomical gifts for the purpose of transplantation, therapy, research,**
4 **or education.**

5 **2. If a coroner or medical examiner receives notice from a**
6 **procurement organization that an anatomical gift might be available or**

7 was made with respect to a decedent whose body is under the
8 jurisdiction of the coroner or medical examiner and a post-mortem
9 examination is going to be performed, unless the coroner or medical
10 examiner denies recovery in accordance with section 58.785, the
11 coroner or medical examiner or designee shall conduct a post-mortem
12 examination of the body or the part in a manner and within a time
13 period compatible with its preservation for the purposes of the gift.

14 3. A part may not be removed from the body of a decedent under
15 the jurisdiction of a coroner or medical examiner for transplantation,
16 therapy, research, or education unless the part is the subject of an
17 anatomical gift. The body of a decedent under the jurisdiction of the
18 coroner or medical examiner may not be delivered to a person for
19 research or education unless the body is the subject of an anatomical
20 gift. This subsection does not preclude a coroner or medical examiner
21 from performing the medicolegal investigation upon the body or parts
22 of a decedent under the jurisdiction of the coroner or medical
23 examiner.

58.785. 1. Upon request of a procurement organization, a coroner
2 or medical examiner shall release to the procurement organization the
3 name, contact information, and available medical and social history of
4 a decedent whose body is under the jurisdiction of the coroner or
5 medical examiner. If the decedent's body or part is medically suitable
6 for transplantation, therapy, research, or education, the coroner or
7 medical examiner shall release post-mortem examination results to the
8 procurement organization. The procurement organization may make
9 a subsequent disclosure of the post-mortem examination results or
10 other information received from the corner or medical examiner only
11 if relevant to transplantation or therapy.

12 2. The coroner or medical examiner may conduct a medicolegal
13 examination by reviewing all medical records, laboratory test results,
14 x-rays, other diagnostic results, and other information that any person
15 possesses about a prospective donor or a donor whose body is under
16 the jurisdiction of the coroner or medical examiner which the coroner
17 or medical examiner determines may be relevant to the investigation.

18 3. A person that has any information requested by a coroner or
19 medical examiner under subsection 2 of this section shall provide that
20 information as expeditiously as possible to allow the coroner or

21 medical examiner to conduct the medicolegal investigation within a
22 period compatible with the preservation of parts for purposes of
23 transplantation, therapy, research, or education.

24 4. If an anatomical gift has been or might be made of a part of a
25 decedent whose body is under the jurisdiction of the coroner or
26 medical examiner and a post-mortem examination is not required, or
27 the coroner or medical examiner determines that a post-mortem
28 examination is required but that the recovery of the part that is the
29 subject of an anatomical gift will not interfere with the examination,
30 the coroner or medical examiner and procurement organization shall
31 cooperate in the timely removal of the part from the decedent for
32 purposes of transplantation, therapy, research, or education.

33 5. If an anatomical gift of a part from the decedent under the
34 jurisdiction of the coroner or medical examiner has been or might be
35 made, but the coroner or medical examiner initially believes that the
36 recovery of the part could interfere with the post-mortem investigation
37 into the decedent's cause or manner of death, the coroner or medical
38 examiner shall consult with the procurement organization or physician
39 or technician designated by the procurement organization about the
40 proposed recovery. After consultation, the coroner or medical
41 examiner may allow recovery.

42 6. Following the consultation under subsection 5 of this section,
43 in the absence of mutually agreed upon protocols to resolve conflict
44 between the coroner or medical examiner and the procurement
45 organization, if the coroner or medical examiner intends to deny
46 recovery, the coroner or medical examiner or his or her designee, at
47 the request of the procurement organization, shall attend the removal
48 procedure for the part before making a final determination not to allow
49 the procurement organization to recover the part. During the removal
50 procedure, the coroner or medical examiner or his or her designee may
51 allow recovery by the procurement organization to proceed, or, if the
52 coroner or medical examiner or his or her designee reasonably believes
53 that the part may be involved in determining the decedent's cause or
54 manner of death, deny recovery by the procurement organization.

55 7. If the coroner or medical examiner or his or her designee
56 denies recovery under subsection 6 of this section, the coroner or
57 medical examiner or his or her designee shall:

58 **(1) Explain in a record the specific reasons for not allowing**
59 **recovery of the part;**

60 **(2) Include the specific reasons in the records of the coroner or**
61 **medical examiner; and**

62 **(3) Provide a record with the specific reasons to the procurement**
63 **organization.**

64 **8. If the coroner or medical examiner or his or her designee**
65 **allows recovery of a part under subsection 4, 5, or 6 of this section, the**
66 **procurement organization shall, upon request, cause the physician or**
67 **technician who removes the part to provide the coroner or medical**
68 **examiner with a record describing the condition of the part, a biopsy,**
69 **photograph, and any other information and observations that would**
70 **assist in the post-mortem examination.**

71 **9. If a coroner or medical examiner or his or her designee is**
72 **required to be present at a removal procedure under subsection 6 of**
73 **this section, the procurement organization requesting the recovery of**
74 **the part shall, upon request, reimburse the coroner or medical**
75 **examiner or his or her designee for the additional costs incurred in**
76 **complying with subsection 6 of this section.**

 194.210. [As used in sections 194.210 to 194.290, the following words and
2 terms mean:

3 (1) "Bank or storage facility", a facility licensed, accredited, or approved
4 under the laws of any state for storage of human bodies or parts thereof;

5 (2) "Decedent", a deceased individual and includes a stillborn infant or
6 fetus;

7 (3) "Donor", an individual who makes a gift of all or part of his body;

8 (4) "Hospital", a hospital licensed, accredited, or approved under the laws
9 of any state and includes a hospital operated by the United States government,
10 a state, or a subdivision thereof, although not required to be licensed under state
11 laws;

12 (5) "Part", organs, tissues, eyes, bones, arteries, blood, other fluids and
13 any other portions of a human body;

14 (6) "Person", an individual, corporation, government or governmental
15 subdivision or agency, business trust, estate, trust, partnership or association, or
16 any other legal entity;

17 (7) "Physician" or "surgeon", a physician or surgeon licensed or authorized

18 to practice under the laws of any state;

19 (8) "State" includes any state, district, commonwealth, territory, insular
20 possession, and any other area subject to the legislative authority of the United
21 States of America.] 1. Sections 194.210 to 194.294 may be cited as the
22 "Revised Uniform Anatomical Gift Act".

23 2. As used in sections 194.210 to 194.294, the following terms
24 mean:

25 (1) "Adult", an individual who is at least eighteen years of age;

26 (2) "Agent", an individual:

27 (a) Authorized to make health-care decisions on the principal's
28 behalf by a power of attorney for health care; or

29 (b) Expressly authorized to make an anatomical gift on the
30 principal's behalf by any other record signed by the principal;

31 (3) "Anatomical gift", a donation of all or part of a human body
32 to take effect after the donor's death for the purposes of
33 transplantation, therapy, research, or education;

34 (4) "Decedent", a deceased individual whose body or part is or
35 may be the source of an anatomical gift;

36 (5) "Disinterested witness", a witness other than the spouse,
37 child, parent, sibling, grandchild, grandparent, or guardian of the
38 individual who makes, amends, revokes, or refuses to make an
39 anatomical gift, or another adult who exhibited special care and
40 concern for the individual. The term does not include a person to
41 which an anatomical gift could pass under section 194.255;

42 (6) "Document of gift", a donor card or other record used to make
43 an anatomical gift. The term includes a statement or symbol on a
44 driver's license, identification card, or donor registry;

45 (7) "Donor", an individual whose body or part is the subject of an
46 anatomical gift;

47 (8) "Donor registry", a database that contains records of
48 anatomical gifts and amendments to or revocations of anatomical gifts;

49 (9) "Driver's license", a license or permit issued by the
50 department of revenue to operate a vehicle whether or not conditions
51 are attached to the license or permit;

52 (10) "Eye bank", a person that is licensed, accredited, or
53 regulated under federal or state law to engage in the recovery,
54 screening, testing, processing, storage, or distribution of human eyes

55 or portions of human eyes;

56 (11) "Guardian", a person appointed by a court to make decisions
57 regarding the support, care, education, health, and welfare of an
58 individual. The term does not include a guardian ad litem;

59 (12) "Hospital", a facility licensed as a hospital under the laws of
60 any state or a facility operated as a hospital by the United States, a
61 state, or a subdivision of a state;

62 (13) "Identification card", an identification card issued by the
63 department of revenue;

64 (14) "Know", to have actual knowledge;

65 (15) "Minor", an individual who is under eighteen years of age;

66 (16) "Organ procurement organization", a person designated by
67 the United States Secretary of Health and Human Services as an organ
68 procurement organization;

69 (17) "Parent", a parent whose parental rights have not been
70 terminated;

71 (18) "Part", an organ, an eye, or tissue of a human being. The
72 term does not include the whole body;

73 (19) "Person", an individual, corporation, business trust, estate,
74 trust, partnership, limited liability company, association, joint venture,
75 public corporation, government or governmental subdivision, agency,
76 or instrumentality, or any other legal or commercial entity;

77 (20) "Physician", an individual authorized to practice medicine
78 or osteopathy under the laws of any state;

79 (21) "Procurement organization", an eye bank, organ
80 procurement organization, or tissue bank;

81 (22) "Prospective donor", an individual who is dead or near death
82 and has been determined by a procurement organization to have a part
83 that could be medically suitable for transplantation, therapy, research,
84 or education. The term does not include an individual who has made
85 a refusal;

86 (23) "Reasonably available", able to be contacted by a
87 procurement organization without undue effort and willing and able to
88 act in a timely manner consistent with existing medical criteria
89 necessary for the making of an anatomical gift;

90 (24) "Recipient", an individual into whose body a decedent's part
91 has been or is intended to be transplanted;

92 **(25) "Record", information that is inscribed on a tangible medium**
93 **or that is stored in an electronic or other medium and is retrievable in**
94 **perceivable form;**

95 **(26) "Refusal", a record created under section 194.235 that**
96 **expressly states an intent to bar other persons from making an**
97 **anatomical gift of an individual's body or part;**

98 **(27) "Sign", with the present intent to authenticate or adopt a**
99 **record:**

100 **(a) To execute or adopt a tangible symbol; or**

101 **(b) To attach or logically associate with the record an electronic**
102 **symbol, sound, or process;**

103 **(28) "State", a state of the United States, the District of Columbia,**
104 **Puerto Rico, the United States Virgin Islands, or any territory or**
105 **insular possession subject to the jurisdiction of the United States;**

106 **(29) "Technician", an individual determined to be qualified to**
107 **remove or process parts by an appropriate organization that is**
108 **licensed, accredited, or regulated under federal or state law. The term**
109 **includes an enucleator;**

110 **(30) "Tissue", a portion of the human body other than an organ**
111 **or an eye. The term does not include blood unless the blood is donated**
112 **for purposes of research or education;**

113 **(31) "Tissue bank", a person that is licensed, accredited, or**
114 **regulated under federal or state law to engage in the recovery,**
115 **screening, testing, processing, storage, or distribution of tissue;**

116 **(32) "Transplant hospital", a hospital that furnishes organ**
117 **transplants and other medical and surgical specialty services required**
118 **for the care of transplant patients.**

194.215. Sections 194.210 to 194.294 apply to an anatomical gift
2 **or amendment to, revocation of, or refusal to make anatomical gift,**
3 **whenever made.**

 194.220. [1. Any individual of sound mind who is at least eighteen years
2 of age may give all or any part of his or her body for any purpose specified in
3 section 194.230, the gift to take effect upon death. Any individual who is a minor
4 and at least sixteen years of age may effectuate a gift for any purpose specified
5 in section 194.230, provided parental or guardian consent is deemed
6 given. Parental or guardian consent shall be noted on the minor's donor card,
7 donor's instruction permit or driver's license, as the attorney-in-fact pursuant to

8 subsection 2 of this section, or other document of gift. An express gift that is not
9 revoked by the donor before death is irrevocable, and the donee shall be
10 authorized to accept the gift without obtaining the consent of any other
11 person. The provisions of this subsection, relating to allowing a minor who is at
12 least sixteen years of age to effectuate a gift for any purpose specified in section
13 194.230, through the driver's license or instruction permit application process,
14 shall be effective July 1, 2003.

15 2. Any of the following persons, in order of priority stated, when persons
16 in prior classes are not available at the time of death, and in the absence of
17 actual knowledge of a gift by the decedent pursuant to subsection 1 of this section
18 or actual notice of contrary indications by the decedent or of opposition by a
19 member of the same or a prior class, may give all or any part of the decedent's
20 body for any purpose specified in section 194.230:

21 (1) An attorney-in-fact under a durable power of attorney that expressly
22 refers to making a gift of all or part of the principal's body pursuant to the
23 uniform anatomical gift act;

24 (2) The spouse;

25 (3) An adult son or daughter;

26 (4) Either parent;

27 (5) An adult brother or sister;

28 (6) A guardian of the person of the decedent at the time of his or her
29 death;

30 (7) Any other person authorized or under obligation to dispose of the body.

31 3. If the donee has actual notice of contrary indications by the decedent
32 or that a gift by a member of a class is opposed by a member of the same or a
33 prior class, the donee shall not accept the gift. The persons authorized by
34 subsection 2 of this section may make the gift after or immediately before death.

35 4. A gift of all or part of a body authorizes any examination necessary to
36 assure medical acceptability of the gift for the purposes intended.

37 5. The rights of the donee created by the gift are paramount to the rights
38 of others except as provided by subsection 4 of section 194.270.] **Subject to**
39 **section 194.240, an anatomical gift of a donor's body or part may be**
40 **made during the life of the donor for the purpose of transplantation,**
41 **therapy, research, or education in the manner provided in section**
42 **194.225 by:**

43 (1) **The donor, if the donor is an adult or if the donor is a minor**

44 and is:

45 (a) Emancipated; or

46 (b) Authorized under state law to apply for a driver's license
47 because the donor is at least sixteen years of age;

48 (2) An agent of the donor, unless the power of attorney for health
49 care or other record prohibits the agent from making an anatomical
50 gift;

51 (3) A parent of the donor, if the donor is an unemancipated
52 minor; or

53 (4) The donor's guardian.

194.225. 1. A donor may make an anatomical gift:

2 (1) By authorizing a statement or symbol indicating that the
3 donor has made an anatomical gift to be imprinted on the donor's
4 driver's license or identification card;

5 (2) In a will; or

6 (3) During a terminal illness or injury of the donor, by any form
7 of communication addressed to at least two adults at least one of whom
8 is a disinterested witness; or

9 (4) As provided in subsection 2 of this section.

10 2. A donor or other person authorized to make an anatomical gift
11 under section 194.220 may make a gift by a donor card or other record
12 signed by the donor or other person making the gift or by authorizing
13 that a statement or symbol indicating that the donor has made an
14 anatomical gift be included on a donor registry. If the donor or other
15 person is physically unable to sign a record, the record may be signed
16 by another individual at the direction of the donor or the other person
17 and shall:

18 (1) Be witnessed by at least two adults at least one of whom is a
19 disinterested witness, who have signed at the request of the donor or
20 the other person; and

21 (2) State that it has been signed and witnessed as provided in
22 subdivision (1) of subsection 1 of this section.

23 3. Revocation, suspension, expiration, or cancellation of the
24 driver's license or identification card upon which an anatomical gift is
25 indicated does not invalidate the gift.

26 4. An anatomical gift made by will takes effect upon the donor's
27 death whether or not the will is probated. Invalidation of the will after

28 the donor's death does not invalidate the gift.

194.230. [The following persons may become donees of gifts of bodies or
2 parts thereof for the purposes stated:

3 (1) Any hospital, surgeon, or physician, for medical or dental education,
4 research, advancement of medical or dental science, therapy, or transplantation;
5 or

6 (2) Any accredited medical or dental school, college or university or the
7 state anatomical board for education, research, advancement of medical or dental
8 science, or therapy; or

9 (3) Any bank or storage facility, for medical or dental education, research,
10 advancement of medical or dental science, therapy, or transplantation; or

11 (4) Any specified individual for therapy or transplantation needed by such
12 individual.] **1. Subject to section 194.240, a donor or other person**
13 **authorized to make an anatomical gift under section 194.220 may**
14 **amend or revoke an anatomical gift by:**

15 (1) **A record signed by:**

16 (a) **The donor;**

17 (b) **The other person; or**

18 (c) **Subject to subsection 2 of this section, another individual**
19 **acting at the direction of the donor or the other person if the donor or**
20 **other person is physically unable to sign; or**

21 (2) **A later-executed document of gift that amends or revokes a**
22 **previous anatomical gift or portion of an anatomical gift, either**
23 **expressly or by inconsistency.**

24 **2. A record signed under paragraph (c) of subdivision (1) of**
25 **subsection 1 of this section shall:**

26 (1) **Be witnessed by at least two adults at least one of whom is a**
27 **disinterested witness, who have signed at the request of the donor or**
28 **the other person; and**

29 (2) **State that it has been signed and witnessed as provided in**
30 **subdivision (1) of subsection 2 of this section.**

31 **3. Subject to section 194.240, a donor or other person authorized**
32 **to make an anatomical gift under section 194.220 may revoke the gift**
33 **by the destruction or cancellation of the document of gift, or a portion**
34 **of the document of gift used to make the gift, with the intent to revoke**
35 **the gift.**

36 **4. A donor may amend or revoke an anatomical gift that was not**

37 made in a will by any form of communication during a terminal illness
38 or injury addressed to at least two adults at least one of whom is a
39 disinterested witness.

40 5. A donor who makes an anatomical gift in a will may amend or
41 revoke the gift in the manner provided for amendment or revocation
42 of wills or as provided in subsection 1 of this section.

194.235. 1. An individual may refuse to make an anatomical gift
2 of the individual's body or part by:

3 (1) A record signed by:

4 (a) The individual; or

5 (b) Subject to subsection 2 of this section, another individual
6 acting at the direction of the individual if the individual is physically
7 unable to sign;

8 (2) The individual's will whether or not the will is admitted to
9 probate or invalidated after the individual's death; or

10 (3) Any form of communication made by the individual during
11 the individual's terminal illness or injury addressed to at least two
12 adults at least one of whom is a disinterested witness.

13 2. A record signed under paragraph (b) of subdivision (1) of
14 subsection 1 of this section shall:

15 (1) Be witnessed by at least two adults at least one of whom is a
16 disinterested witness, who have signed at the request of the individual;
17 and

18 (2) State that it has been signed and witnessed as provided in
19 subdivision (1) of subsection 2 of this section.

20 3. An individual may amend or revoke a refusal:

21 (1) In the manner provided in subsection 1 of this section for
22 making a refusal;

23 (2) By subsequently making an anatomical gift under section
24 194.225 that is inconsistent with the refusal; or

25 (3) By the destroying or cancelling of the record evidencing the
26 refusal, or the portion of the record used to make the refusal, with the
27 intent to revoke the refusal.

28 4. Except as otherwise provided in subsection 8 of section
29 194.240, in the absence of an express, contrary indication by the
30 individual set forth in the refusal, an individual's unrevoked refusal to
31 make an anatomical gift of the individual's body or a part bars all other

32 **persons from making an anatomical gift of the individual's body or the**
33 **part.**

194.240. 1. [A gift of all or part of the body under subsection 1 of section
2 194.220 may be made by will. The gift becomes effective upon the death of the
3 testator without waiting for probate. If the will is not probated, or if it is
4 declared invalid for testamentary purposes, the gift, to the extent that it has been
5 acted upon in good faith, is nevertheless valid and effective.

6 2. A gift of all or part of the body under subsection 1 of section 194.220
7 may also be made by document other than a will. The gift becomes effective
8 upon the death of the donor. The document, which may be a card designed to be
9 carried on the person, must be signed by the donor in the presence of two
10 witnesses who must sign the document in his presence or before a notary or other
11 official authorized to administer oaths generally. If the donor cannot sign, the
12 document may be signed for him at his direction and in his presence in the
13 presence of two witnesses who must sign the document in his presence. Delivery
14 of the document of gift during the donor's lifetime is not necessary to make the
15 gift valid.

16 3. The gift may be made to a specified donee or without specifying a
17 donee. If the latter, the gift may be accepted by a physician as donee upon or
18 following death. If the gift is made to a specified donee who is not available at
19 the time and place of death or if the gift cannot be implemented, a physician upon
20 or following death, in the absence of any expressed indication that the donor
21 desired otherwise, may accept the gift as donee. The physician who becomes a
22 donee under this subsection shall not participate in the procedures for removing
23 or transplanting a part.

24 4. Notwithstanding the provisions of subsection 2 of section 194.270, the
25 donor may designate in his will, card, or other document of gift the surgeon or
26 physician to carry out the appropriate procedures. In the absence of a
27 designation or if the designee is not available, the donee or other person
28 authorized to accept the gift may employ or authorize any surgeon or physician
29 to carry out the appropriate procedures. For the purpose of removing an eye or
30 part thereof, any medical technician employed by a hospital, physician or eye
31 bank and acting under supervision may perform the appropriate procedures. Any
32 medical technician authorized to perform such procedure shall successfully
33 complete the course prescribed in section 194.295 for embalmers.

34 5. Any gift by a person designated in subsection 2 of section 194.220 shall

35 be made by a document signed by him or made by his telegraphic, recorded
36 telephonic, or other recorded message.

37 6. A gift of part of the body under subsection 1 of section 194.220 may also
38 be made by a statement on a form which shall be provided on the reverse side of
39 all Missouri motor vehicle licenses issued pursuant to chapter 302, RSMo. The
40 statement to be effective shall be signed by the owner of the license in the
41 presence of two witnesses, who shall sign the statement in the presence of the
42 donor. Use of the form is prima facie evidence that the owner of the license
43 intended to make the anatomical gift, and there shall be no civil or criminal
44 liability for removal of any part of the body indicated on the form by a licensed
45 physician or surgeon. The gift becomes effective upon the death of the
46 donor. Delivery of the license during the donor's lifetime is not necessary to make
47 the gift valid. The gift shall become invalidated upon expiration, cancellation,
48 revocation, or suspension of the license, and the gift must be renewed upon
49 renewal of each license. Pertinent medical information which may affect the
50 quality of the gift may be included in the statement of gift.

51 7. Any person eighteen years of age or older, or any person under the age
52 of eighteen with parental consent who indicates the desire to make an organ
53 donation through any method prescribed in this section may also contact the
54 department of health and senior services when completing such form, so that the
55 information may be included in the registry maintained by the department
56 pursuant to subsection 1 of section 194.304. Failure to contact the department
57 of health and senior services shall not be construed to challenge the validity of
58 the organ donation.

59 8. Organ procurement organizations and tissue banks may employ
60 coordinators to assist in the procurement of cadaveric organs and tissue for
61 transplant or research. A coordinator who assists in the procurement of cadaveric
62 organs or tissue for transplantation or research must do so under the direction
63 and supervision of a physician or surgeon. With the exception of organ
64 procurement surgery, this supervision may be indirect supervision. For purposes
65 of this subsection, the term "indirect supervision" means that a physician or
66 surgeon is responsible for the medical actions of the coordinator, that the
67 coordinator is acting under protocols expressly approved by a physician or
68 surgeon, and that a physician or surgeon is available, in person or by telephone,
69 to provide medical direction, consultation and advice in cases of organ and tissue
70 donation and procurement.

71 9. The department of health and senior services shall collect information
72 and publish an annual report which shall include the number of organ and tissue
73 donations made in the state, the number of organ or tissue donations received by
74 citizens of the state of Missouri, the number of organ or tissue donations
75 transported outside the state boundaries and the cost of such organ or tissue
76 donations.] **Except as otherwise provided in subsection 7 of this section**
77 **and subject to subsection 6 of this section, in the absence of an express,**
78 **contrary indication by the donor, a person other than the donor is**
79 **barred from making, amending, or revoking an anatomical gift of a**
80 **donor's body or a part if the donor made an anatomical gift of the**
81 **donor's body or the part under section 194.225 or an amendment to an**
82 **anatomical gift of the donor's body or the part under section 194.230.**

83 2. **A donor's revocation of an anatomical gift of the donor's body**
84 **or a part under section 194.230 is not a refusal and does not bar**
85 **another person specified in section 194.220 or 194.245 from making an**
86 **anatomical gift of the donor's body or a part under section 194.225 or**
87 **194.250.**

88 3. **If a person other than the donor makes an unrevoked**
89 **anatomical gift of the donor's body or part under section 194.225 or an**
90 **amendment to an anatomical gift of the donor's body or part under**
91 **section 194.230, another person may not make, amend, or revoke the**
92 **gift of the donor's body or part under section 194.250.**

93 4. **A revocation of an anatomical gift of the donor's body or a**
94 **part under section 194.230 by a person other than the donor does not**
95 **bar another person from making an anatomical gift of the body or a**
96 **part under section 194.225 or 194.250.**

97 5. **In the absence of an express, contrary indication by the donor**
98 **or other person authorized to make an anatomical gift under section**
99 **194.220, an anatomical gift of a part is neither a refusal to give another**
100 **part nor a limitation on the making of an anatomical gift of another**
101 **part at a later time by the donor or another person made by a person.**

102 6. **In the absence of an express, contrary indication by the donor**
103 **or other person authorized to make an anatomical gift under section**
104 **194.220, an anatomical gift of a part for one or more purposes set forth**
105 **in section 194.220 is not a limitation on the making of an anatomical**
106 **gift of the part for any other purpose by the donor or other person**
107 **under section 194.225 or 194.250.**

108 7. If a donor who is an unemancipated minor dies, a parent of
109 the donor who is reasonably available may revoke or amend an
110 anatomical gift of the donor's body or part.

111 8. If an unemancipated minor who signed a refusal dies, a parent
112 of the minor who is reasonably available may revoke the minor's
113 refusal.

 194.245. 1. Subject to subsections 2 and 3 of this section and
2 unless barred by section 194.235 or 194.240, an anatomical gift of a
3 decedent's body or part for purposes of transplantation, therapy,
4 research, or education may be made, in the order of priority listed, by
5 any member of the following classes of persons who is reasonably
6 available:

7 (1) An agent of the decedent at the time of death who could have
8 made an anatomical gift under subdivision (2) of section 194.220
9 immediately before the decedent's death;

10 (2) The spouse of the decedent;

11 (3) Adult children of the decedent;

12 (4) Parents of the decedent;

13 (5) Adult siblings of the decedent;

14 (6) Adult grandchildren of the decedent;

15 (7) Grandparents of the decedent;

16 (8) An adult who exhibited special care and concern for the
17 decedent;

18 (9) The persons who were acting as the guardian of the person
19 of the decedent at the time of death; and

20 (10) Any other person having the authority to dispose of the
21 decedent's body.

22 2. If there is more than one member of a class listed in
23 subdivisions (1), (3), (4), (5), (6), (7), or (9) of subsection 1 of this section
24 entitled to make an anatomical gift, an anatomical gift may be made by
25 a member of the class unless that member or a person to which the gift
26 can pass under section 194.255 knows of an objection by another
27 member of the class. If an objection is known, the gift may be made
28 only by a majority of the members of the class who are reasonably
29 available.

30 3. A person may not make an anatomical gift if, at the time of the
31 decedent's death, a person in a prior class under subsection 1 of this

32 **section is reasonably available to make or to object to the making of an**
33 **anatomical gift.**

194.250. [If the gift is made by the donor to a specified donee, the will,
2 card, or other document, or an executed copy thereof, may be delivered to the
3 donee to expedite the appropriate procedures immediately after death. Delivery
4 is not necessary to the validity of the gift. The will, card, or other document, or
5 an executed copy thereof, may be deposited in any hospital, bank or storage
6 facility or registry office that accepts it for safekeeping or for facilitation of
7 procedures after death. On request of any interested party upon or after the
8 donor's death, the person in possession shall produce the document for
9 examination.] 1. **A person authorized to make an anatomical gift under**
10 **section 194.245 may make an anatomical gift by a document of gift**
11 **signed by the person making the gift or that person's oral**
12 **communication that is electronically recorded or is contemporaneously**
13 **reduced to a record and signed by the individual receiving the oral**
14 **communication.**

15 2. **Subject to subsection 3 of this section, an anatomical gift by**
16 **a person authorized under section 194.245 may be amended or revoked**
17 **orally or in a record by any member of a prior class who is reasonably**
18 **available. If more than one member of the prior class is reasonably**
19 **available, the gift made by a person authorized under section 194.245**
20 **may be:**

21 (1) **Amended only if a majority of reasonably available members**
22 **agree to the revoking of the gift; or**

23 (2) **Revoked only if a majority of the reasonably available**
24 **members agree to the revoking of the gift or if they are equally divided**
25 **as to whether to revoke the gift.**

26 3. **A revocation under subsection 2 of this section is effective**
27 **only if, before an incision has been made to remove a part from the**
28 **donor's body or before invasive procedures have begun to prepare the**
29 **recipient, the procurement organization, transplant hospital, or**
30 **physician or technician knows of the revocation.**

194.255. 1. **An anatomical gift of a body or part may be made to**
2 **the following persons:**

3 (1) **A hospital, accredited medical school, dental school, college,**
4 **university, or organ procurement organization, or other appropriate**
5 **person for research or education;**

6 (2) Subject to subsection 2 of this section, an individual
7 designated by the person making the anatomical gift if the individual
8 is the recipient of the part; or

9 (3) A named eye bank or tissue bank.

10 2. If an anatomical gift to an individual under subdivision (2) of
11 subsection 1 of this section cannot be transplanted into the individual,
12 the part passes in accordance with subsection 7 of this section in the
13 absence of an express, contrary indication by the person making the
14 anatomical gift.

15 3. If an anatomical gift of one or more specific parts or of all
16 parts is made in a document of gift that does not name a person
17 described in subsection 1 of this section but identifies the purpose for
18 which an anatomical gift may be used, the following rules apply:

19 (1) If the part is an eye and the gift is for the purpose of
20 transplantation or therapy, the gift passes to the appropriate eye bank;

21 (2) If the part is tissue and the gift is for the purpose of
22 transplantation or therapy, the gift passes to the appropriate tissue
23 bank;

24 (3) If the part is an organ and the gift is for the purpose of
25 transplantation or therapy, the gift passes to the appropriate organ
26 procurement organization as custodian of the organ;

27 (4) If the part is an organ, an eye, or tissue and the gift is for the
28 purpose of research or education, the gift passes to the appropriate
29 procurement organization.

30 4. For the purpose of subsection 3 of this section, if there is more
31 than one purpose of an anatomical gift set forth in the document of gift
32 but the purposes are not set forth in any priority, the gift must be used
33 for transplantation or therapy if suitable. If the gift cannot be used for
34 transplantation or therapy, the gift may be used for research or
35 education.

36 5. If an anatomical gift of one or more specific parts is made in
37 a document of gift that does not name a person described in subsection
38 1 of this section and does not identify the purpose of the gift, the gift
39 may be used only for transplantation or therapy, and the gift passes in
40 accordance with subsection 7 of this section.

41 6. If a document of gift specifies only a general intent to make an
42 anatomical gift by words such as "donor", "organ donor", or "body

43 donor", or by a symbol or statement of similar import, the gift may be
44 used only for transplantation or therapy, and the gift passes in
45 accordance with subsection 7 of this section.

46 7. For purposes of subsections 2, 5, and 6 of this section, the
47 following rules apply:

48 (1) If the part is an eye, the gift passes to the appropriate eye
49 bank;

50 (2) If the part is tissue, the gift passes to the appropriate tissue
51 bank;

52 (3) If the part is an organ, the gift passes to the appropriate
53 organ procurement organization as custodian of the organ.

54 8. An anatomical gift of an organ for transplantation or therapy,
55 other than an anatomical gift under subdivision (2) of subsection 1 of
56 this section, passes to the organ procurement organization as custodian
57 of the organ.

58 9. If an anatomical gift does not pass under subsections 1
59 through 8 of this section or the decedent's body or part is not used for
60 transplantation, therapy, research, or education, custody of the body
61 or part passes to the person under obligation to dispose of the body or
62 part.

63 10. A person may not accept an anatomical gift if the person
64 knows that the gift was not effectively made under section 194.225 or
65 194.250 or if the person knows that the decedent made a refusal under
66 section 194.235 that was not revoked. For purposes of this subsection,
67 if a person knows that an anatomical gift was made on a document of
68 gift, the person is deemed to know of any amendment or revocation of
69 the gift or any refusal to make an anatomical gift on the same
70 document of gift.

71 11. Except as otherwise provided in subdivision (2) of subsection
72 1 of this section, nothing in this act affects the allocation of organs for
73 transplantation or therapy.

194.260. 1. [If the will, card, or other document or executed copy thereof,
2 has been delivered to a specified donee, the donor may amend or revoke the gift
3 by:

4 (1) The execution and delivery to the donee of a signed statement, or

5 (2) An oral statement made in the presence of two persons and
6 communicated to the donee, or

7 (3) A statement during a terminal illness or injury addressed to an
8 attending physician and communicated to the donee, or

9 (4) A signed card or document found on his person or in his effects.

10 2. Any document of gift which has not been delivered to the donee may be
11 revoked by the donor in the manner set out in subsection 1, or by destruction,
12 cancellation, or mutilation of the document and all executed copies thereof.

13 3. Any gift made by a will may also be amended or revoked in the manner
14 provided for amendment or revocation of wills, or as provided in subsection 1.]

15 **The following persons shall make a reasonable search of an individual**
16 **who the person reasonably believes is dead or near death for a**
17 **document of gift or other information identifying the individual as a**
18 **donor or as an individual who made a refusal:**

19 (1) A law enforcement officer, firefighter, paramedic, or other
20 emergency rescuer finding the individual; and

21 (2) If no other source of the information is immediately
22 available, a hospital, as soon as practical after the individual's arrival
23 at the hospital.

24 2. If a document of gift or a refusal to make an anatomical gift
25 is located by the search required by subdivision (1) of subsection 1 of
26 this section and the individual or deceased individual to whom it
27 relates is taken to a hospital, the person responsible for conducting the
28 search shall send the document of gift or refusal to the hospital.

29 3. A person is not subject to criminal or civil liability for failing
30 to discharge the duties imposed by this section but may be subject to
31 administrative sanctions.

194.263. 1. A document of gift need not be delivered during the
2 donor's lifetime to be effective.

3 2. Upon or after an individual's death, a person in possession of
4 a document of gift or a refusal to make an anatomical gift with respect
5 to the individual shall allow examination and copying of the document
6 of gift or refusal by a person authorized to make or object to the
7 making of an anatomical gift with respect to the individual or by a
8 person to which the gift could pass under section 194.255.

194.265. 1. When a hospital refers an individual at or near death
2 to a procurement organization, the organization shall make a
3 reasonable search of any donor registry and other applicable records
4 that it knows exist for the geographical area in which the individual

5 resides to ascertain whether the individual has made an anatomical
6 gift.

7 2. A procurement organization shall be allowed reasonable
8 access to information in the records of the department of health and
9 senior services and department of revenue to ascertain whether an
10 individual at or near death is a donor.

11 3. When a hospital refers an individual at or near death to a
12 procurement organization, the organization may conduct any
13 reasonable examination necessary to ensure the medical suitability of
14 a part that is or could be the subject of an anatomical gift for
15 transplantation, therapy, research, or education from a donor or a
16 prospective donor. During the examination period, measures necessary
17 to ensure the medical suitability of the part may not be withdrawn
18 unless the hospital or procurement organization knows that the
19 individual expressed a contrary intent.

20 4. Unless prohibited by law other than sections 194.210 to
21 194.294, at any time after a donor's death, the person to which a part
22 passes under section 194.255 may conduct any reasonable examination
23 necessary to ensure the medical suitability of the body or part for its
24 intended purpose.

25 5. Unless prohibited by law other than sections 194.210 to
26 194.294, an examination under subsection 3 or 4 of this section may
27 include an examination of all medical records of the donor or
28 prospective donor.

29 6. Upon the death of a minor who was a donor or had signed a
30 refusal, unless a procurement organization knows the minor is
31 emancipated, the procurement organization shall conduct a reasonable
32 search for the parents of the minor and provide the parents with an
33 opportunity to revoke or amend the anatomical gift or revoke a refusal.

34 7. Upon referral by a hospital under subsection 1 of this section,
35 a procurement organization shall make a reasonable search for any
36 person listed in section 194.245 having priority to make an anatomical
37 gift on behalf of a prospective donor. If a procurement organization
38 receives information that an anatomical gift to any other person was
39 made, amended, or revoked, it shall promptly advise the other person
40 of all relevant information.

41 8. Subject to subsection 8 of section 194.255 and section 58.785,

42 **RSMo, the rights of the person to which a part passes under section**
43 **194.255 are superior to rights of all others with respect to the part. The**
44 **person may accept or reject an anatomical gift in whole or in**
45 **part. Subject to the terms of the document of gift and this act, a person**
46 **that accepts an anatomical gift of an entire body may allow embalming**
47 **or cremation and use of remains in a funeral service. If the gift is of a**
48 **part, the person to which the part passes under section 194.255, upon**
49 **the death of the donor and before embalming, burial, or cremation,**
50 **shall cause the part to be removed without unnecessary mutilation.**

51 **9. Neither the physician who attends the decedent at death nor**
52 **the physician who determines the time of the decedent's death may**
53 **participate in the procedures for removing or transplanting a part from**
54 **the decedent.**

55 **10. A physician or technician may remove a donated part from**
56 **the body of a donor that the physician or technician is qualified to**
57 **remove.**

194.270. [1. The donee may accept or reject the gift. If the donee accepts
2 a gift of the entire body, he may, subject to the terms of the gift, authorize
3 embalming and the use of the body in funeral services. If the gift is of a part of
4 the body, the donee, upon the death of the donor and prior to embalming, shall
5 cause the part to be removed without unnecessary mutilation. After removal of
6 the part, custody of the remainder of the body vests in the surviving spouse, next
7 of kin, or other persons under obligation to dispose of the body.

8 2. The time of death shall be determined by a physician who tends the
9 donor at his death, or, if none, the physician who certifies the death. The
10 physician shall not participate, directly or indirectly, in the procedures for
11 removing or transplanting a part or be a relative within the fourth degree of
12 consanguinity of any donee of a body or part thereof which is removed or
13 transplanted.

14 3. A person who acts without negligence and in good faith in accord with
15 the terms of this act or with the anatomical gift laws of another state or a foreign
16 country is not liable for damages in any civil action or subject to prosecution in
17 any criminal proceeding for his act.

18 4. The provisions of this act are subject to the laws of this state
19 prescribing powers and duties with respect to autopsies.] **Each hospital in this**
20 **state shall enter into agreements or affiliations with procurement**

21 organizations for coordination of procurement and use of anatomical
22 gifts.

194.275. 1. Except as otherwise provided in subsection 2 of this
2 section, a person that for valuable consideration, knowingly purchases
3 or sells a part for transplantation or therapy if removal of a part from
4 an individual is intended to occur after the individual's death commits
5 a felony and upon conviction is subject to a fine not exceeding fifty
6 thousand dollars or imprisonment not exceeding five years, or both.

7 2. A person may charge a reasonable amount for the removal,
8 processing, preservation, quality control, storage, transportation,
9 implantation, or disposal of a part.

194.280. [Sections 194.210 to 194.290 shall be so construed as to
2 effectuate its general purpose to make uniform the law of those states which
3 enact it.] Any person that in order to obtain a financial gain
4 intentionally falsifies, forges, conceals, defaces, or obliterates a
5 document of gift, an amendment or revocation of a document of gift, or
6 a refusal commits a felony and upon conviction is subject to a fine not
7 exceeding fifty thousand dollars or imprisonment not exceeding five
8 years, or both.

194.285. 1. A person who acts without negligence and in good
2 faith in accord with the terms of sections 194.210 to 194.294 or with the
3 anatomical gift laws of another state or foreign country is not liable for
4 damages in any civil actions or subject to prosecution in any criminal
5 proceeding for his act. A party claiming another was negligent shall
6 have the burden of proving the claimed negligence.

7 2. Neither the person making an anatomical gift nor the donor's
8 estate is liable for any injury or damage that results from the making
9 or use of the gift.

10 3. In determining whether an anatomical gift has been made,
11 amended, or revoked under sections 194.210 to 194.294, a person may
12 rely upon representations of individuals listed in subdivisions (2), (3),
13 (4), (5), (6), (7) or (8) of subsection 1 of section 194.245 relating to the
14 individual's relationship to the donor or prospective donor unless the
15 person knows that representation is untrue.

194.290. [Sections 194.210 to 194.290 may be cited as the "Uniform
2 Anatomical Gift Act".] 1. As used in this section, the following terms
3 mean:

4 (1) "Advance health-care directive", a power of attorney for
5 health care or record signed by a prospective donor containing the
6 prospective donor's direction concerning a health-care decision for the
7 prospective donor;

8 (2) "Declaration", a record signed by a prospective donor
9 specifying the circumstances under which a life support system may be
10 withheld or withdrawn;

11 (3) "Health-care decision", any decision made regarding the
12 health care of the prospective donor.

13 2. If a prospective donor has a declaration or advance health-
14 care directive measures necessary to insure the medical suitability of
15 an organ for transplantation or therapy may not be withheld or
16 withdrawn from the prospective donor, unless the declaration expressly
17 provides to the contrary.

194.292. 1. A document of gift is valid if executed in accordance
2 with:

3 (1) Sections 194.210 to 194.294;

4 (2) The laws of the state or country where it was executed; or

5 (3) The laws of the state or country where the person making the
6 anatomical gift was domiciled, has a place of residence, or was a
7 national at the time the document of gift was executed.

8 2. If a document of gift is valid under this section, the law of this
9 state governs the interpretation of the document of gift.

10 3. A person may presume that a document of gift or amendment
11 of an anatomical gift is valid unless that person knows that it was not
12 validly executed or was revoked.

194.293. In applying and construing sections 194.216 to 194.290,
2 consideration shall be given to the need to promote uniformity of the
3 law with respect to its subject matter among states that enact it.

194.294. Sections 194.210 to 194.294 modifies, limits, and
2 supersedes the Electronic Signatures in Global and National Commerce
3 Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or
4 supersede Section 101(a) of that act, 15 U.S.C. Section 7001, or authorize
5 electronic delivery of any of the notices described in Section 103(b) of
6 that act, 15 U.S.C. Section 7003(b).

194.304. 1. The department of health and senior services [shall maintain
2 a registry of organ donors. The registry shall record any person who indicates

3 through any means, including completing the reverse side of a license to operate
4 a motor vehicle as prescribed in subsection 6 of section 194.240, that the person
5 desires to make an organ donation upon the person's death. Information in such
6 registry shall be released only to appropriate persons or organizations designated
7 by the advisory committee.

8 2. Any person who has previously put his or her name on the organ donor
9 registry may have that name deleted by filing the appropriate form with the
10 department of health and senior services.] **may establish or contract for the**
11 **establishment of a donor registry.**

12 **2. The department of revenue shall cooperate with any donor**
13 **registry that this state establishes, contracts for, or recognizes for the**
14 **purpose of transferring to the donor registry all relevant information**
15 **regarding a donor's making, amendment to, or revocation of an**
16 **anatomical gift.**

17 **3. A donor registry shall:**

18 **(1) Allow a donor or other person authorized under section**
19 **194.220 to include on the donor registry a statement or symbol that the**
20 **donor has made, amended, or revoked an anatomical gift;**

21 **(2) Be accessible to a procurement organization to allow it to**
22 **obtain relevant information on the donor registry to determine, at or**
23 **near death of the donor or a prospective donor, whether the donor or**
24 **prospective donor has made, amended, or revoked an anatomical gift;**
25 **and**

26 **(3) Be accessible for purposes of subdivisions (1) and (2) of this**
27 **subsection seven days a week on a twenty-four-hour basis.**

28 **4. Personally identifiable information on a donor registry about**
29 **a donor or prospective donor may not be used or disclosed without the**
30 **express consent of the donor, prospective donor, or the person that**
31 **made the anatomical gift for any purpose other than to determine, at**
32 **or near death of the donor or a prospective donor, whether the donor**
33 **or prospective donor has made, amended, or revoked an anatomical**
34 **gift.**

35 **5. This section does not prohibit any person from creating or**
36 **maintaining a donor registry that is not established by or under**
37 **contract with the state. However, the registry shall comply with**
38 **subsections 3 and 4 of this section.**

[194.233. 1. The chief executive officer of each hospital in

2 this state shall designate one or more trained persons to request
3 anatomical gifts which persons shall not be connected with
4 determination of death. The hospital official may designate a
5 representative of an organ or tissue procurement organization to
6 request consent.

7 2. When there is a patient who is a suitable candidate for
8 organ or tissue donation based on hospital accepted criteria the
9 designee shall request consent to a donation from the persons
10 authorized to give consent as specified in subdivision (1), (2), (3),
11 (4), (5) or (6) of subsection 2 of section 194.220. The request shall
12 be made in the order of priority stated in subsection 2 of section
13 194.220. When the hospital cannot, from available information,
14 ascertain that the patient has next-of-kin authorized to give
15 consent as specified in subdivision (2), (3), (4), (5) or (6) of
16 subsection 2 of section 194.220, then the hospital shall notify and
17 request consent to a donation from a member of the class described
18 in subdivision (7) of subsection 2 of section 194.220. Such
19 notification to a member of the class described in subdivision (7) of
20 subsection 2 of section 194.220 shall occur before death where
21 practicable.

22 3. No request shall be required if the hospital designee has
23 actual notice of a gift by the decedent under subsection 1 of section
24 194.220 or actual notice of contrary indications by the decedent.

25 4. Consent shall be obtained by the methods specified in
26 section 194.240.

27 5. Where a donation is requested, the designee shall verify
28 such request in the patient's medical record. Such verification of
29 request for organ donation shall include a statement to the effect
30 that a request for consent to an anatomical gift has been made, and
31 shall further indicate thereupon whether or not consent was
32 granted, the name of the person granting or refusing the consent,
33 and his or her relationship to the decedent.

34 6. Upon the approval of the designated next of kin or other
35 individual, as set forth in subsection 2 of section 194.220, the
36 hospital shall then notify an organ or tissue procurement
37 organization and cooperate in the procurement of the anatomical

38 gift or gifts pursuant to applicable provisions of sections 194.210 to
39 194.290.

40 7. No hospital shall have an obligation to retrieve the organ
41 or tissue donated pursuant to this section.]

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